

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 781

Introduced by Mines, 18

Read first time January 4, 2006

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2001, 77-2002, 77-2004, and 77-2005.01, Reissue
3 Revised Statutes of Nebraska; to change inheritance tax
4 provisions; to harmonize provisions; and to repeal the
5 original sections.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2001, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2001 All property, including proceeds of life
4 insurance receivable by the executor or administrator to the extent
5 of the amount receivable by the executor or administrator as
6 insurance under policies upon the life of the decedent, which shall
7 pass by will or by the intestate laws of this state from any person
8 who, at the time of death was a resident of this state, or, if the
9 decedent was not a resident, any part of the property within this
10 state, except property exempted by ~~the provisions of Chapter 77,~~
11 ~~article 20,~~ sections 77-2001 to 77-2040, shall be subject to tax at
12 the rates prescribed by ~~sections 77-2004 to~~ sections 77-2705 and
13 77-2006.

14 Sec. 2. Section 77-2002, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-2002 (1) Any interest in property whether created or
17 acquired prior or subsequent to August 27, 1951, shall be subject
18 to tax at the rates prescribed by ~~sections 77-2004 to~~ 77-2705 and
19 77-2006, except property exempted by ~~the provisions of Chapter 77,~~
20 ~~article 20,~~ sections 77-2001 to 70-2040, if it shall be transferred
21 by deed, grant, sale, or gift, in trust or otherwise, and: (a) Made
22 in contemplation of the death of the grantor; (b) intended to take
23 effect in possession or enjoyment, after his or her death; (c) by
24 reason of death, any person shall become beneficially entitled in
25 possession or expectation to any property or income thereof; or (d)

1 held as joint owners or joint tenants by the decedent and any other
2 person in their joint names, except such part thereof as may be
3 shown to have originally belonged to such other person and never to
4 have been received or acquired by the latter from the decedent for
5 less than an adequate and full consideration in money or property,
6 except that when such property or any part thereof, or part of
7 the consideration with which such property was acquired, is shown
8 to have been at any time acquired by such other person from the
9 decedent for less than an adequate and full consideration in money
10 or property, there shall be excepted only such part of the value
11 of such property as is proportionate to the consideration furnished
12 by such other person or, when any property has been acquired by
13 gift, bequest, devise, or inheritance by the decedent and any other
14 person as joint owners or joint tenants and their interests are
15 not otherwise specified or fixed by law, then to the extent of the
16 value of a fractional part to be determined by dividing the value
17 of the property by the number of joint owners or joint tenants.

18 (2) For the purpose of subsection (1) of this section,
19 if the decedent, within a period of three years ending with the
20 date of his or her death, except in the case of a bona fide sale
21 for an adequate and full consideration for money or money's worth,
22 transferred an interest in property for which a federal gift tax
23 return is required to be filed under the provisions of the Internal
24 Revenue Code, such transfer shall be deemed to have been made in
25 contemplation of death within the meaning of subsection (1) of this

1 section; no such transfer made before such three-year period shall
2 be treated as having been made in contemplation of death in any
3 event.

4 Sec. 3. Section 77-2004, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-2004 ~~In the case of a~~ Interests passing to a surviving
7 spouse, father, mother, grandfather, grandmother, brother, sister,
8 son, daughter, or child or children legally adopted as such in
9 conformity with the laws of the state where adopted, any lineal
10 descendant, any lineal descendant legally adopted as such in
11 conformity with the laws of the state where adopted, or any person
12 to whom the deceased for not less than ten years prior to death
13 stood in the acknowledged relation of a parent, or to the spouse or
14 surviving spouse of any such persons, the rate of tax shall be one
15 percent of the clear market value of the property in excess of ten
16 thousand dollars received by each person. Any interest in property,
17 including any interest acquired in the manner set forth in section
18 77-2002, which may be valued at a sum less than ten thousand
19 dollars shall not be subject to tax. In addition the homestead
20 allowance, exempt property, and family maintenance allowance shall
21 not be subject to tax. ~~Interests passing to the surviving spouse~~
22 ~~by will, in the manner set forth in section 77-2002, or in any~~
23 ~~other manner shall not be subject to tax.~~ The changes made to this
24 section by this legislative bill apply to decedents dying on and
25 after January 1, 2006.

1 Sec. 4. Section 77-2005.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2005.01 (1) For the purposes of sections 77-2004 and
4 77-2005, relatives of the decedent shall include relatives of a
5 former spouse to whom the decedent was married at the time of the
6 death of the former spouse and relatives of a spouse to whom the
7 decedent was married at the time of his or her death.

8 (2) The computation of any tax due pursuant to sections
9 ~~77-2004~~, 77-2005, and 77-2006 shall be made without regard to
10 Nebraska inheritance tax apportionment.

11 Sec. 5. Original sections 77-2001, 77-2002, 77-2004, and
12 77-2005.01, Reissue Revised Statutes of Nebraska, are repealed.